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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,320	02/02/2001	Helmuth Gabl	ANDPAT/150/US	9342

7590 05/20/2003
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EXAMINER

SAVAGE, MATTHEW O

ART UNIT

PAPER NUMBER

1723

DATE MAILED: 05/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/776,320	Applicant(s) GABL ET AL.	
	Examiner Matthew O Savage	Art Unit 1723	

8-13

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 24 February 2003.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1 and 3-8 is/are pending in the application.

4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1 and 3-8 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

Art Unit: 1723

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 3-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

With respect to line 12 of claim 1 and the specification, line 29 of page 5 to line 4 of page 5, the numerical range of the clearance angle alpha has not been adequately disclosed in the specification. In addition, it is not clear as to whether or not the clearance angle alpha is present only in an intermediate product, for example, in a planar intermediate product that is later bent into a non-planar/cylindrical configuration, or in the final product, for example, in a planar or cylindrical screen member.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 499,154.

With respect to claim 1, '154 discloses a plurality of screen rods 3 each having a plurality of side walls 7, 8 (see FIG. 2), a first side wall 8 being capable of facing a flow of pulp suspension and a second side 7 facing away from the flow of pulp suspension, at least one of the side walls defining at least one protrusion 36, at least one rod bearing support element 1' having a plurality of receptacles 2 with an inner surface defining a recess shape that is complementary to the protrusion of the rod, wherein a portion of each rod is received within a receptacle and each protrusion of the rod is received within a recess of the supporting element, the inner surface of the receptacle defining a clearance angle alpha with the second sidewall of the rod (e.g., a clearance angle of zero). '154 fails to specify the limitation of the protrusions having a circular or elliptic shape, however, such changes in shape are considered obvious absent any persuasive evidence that such configurations are structurally significant (see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)). '154 discloses the protrusions 36 as having a radius r (e.g., at opposite sides of the protrusion) but fails to specify the range of $.1\text{mm} < r < 2\text{mm}$, however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

With respect to claim 3, '154 discloses each of the rods as having an embedded end with at least one of the rods having a plurality of protrusions 36, 36'. '154 fails to specify the protrusions as being positioned at a distance $.1\text{mm} < h_1 < 6\text{mm}$, however, such

relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

Regarding claims 4 and 5, '154 fails to specify the limitation of the rods as having three or more protrusions received within recesses in the inner surface of the supporting element as recited in claim 4, or the limitation of the first sidewall as having a different number of protrusions than the second sidewall as recited in claim 5, however, the mere duplication of parts / number of protrusions is not considered to be patently significant unless a new and unexpected result is produced (see *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960)).

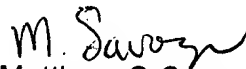
Concerning claim 6 '154 fails to specify the limitation of the supporting elements as having a T-shape as recited in claim 6, however, such changes in shape are considered obvious absent any persuasive evidence that such configurations are structurally significant (see *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)).

With respect to claim 7, '154 discloses each of the rods as having a total height H and an embedded portion protruding into the supporting element having a height h but fails to specify the ratio of h to H as being greater than 0.5, however, such relative dimensions are not considered to be a patentable distinction since the instant invention would not appear to function any differently than the '154 device.

Regarding claim 8, '154 discloses the rods as having an embedded portion pressed together with the supporting element (e.g., due to the clamping force exerted upon the rods by the supporting elements).

Applicant's arguments filed 3-25-03 have been fully considered but they are not persuasive. Applicant argues that the values recited of the protrusion dimensions recited in claim 3 and the rod dimensions recited in claim 7, as well as the addition multiple protrusions recited in claim 4 and 5 provide advantages over conventional screens, however, it is held that such modifications are obvious for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew O Savage whose telephone number is 703-308-3854. The examiner can normally be reached on Monday-Friday, 7:00am-3:30pm.


Matthew O Savage
Primary Examiner
Art Unit 1723

mos
May 19, 2003